

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

ELAN MICROELECTRONICS  
CORPORATION,

Plaintiff,

v.

APPLE, INC.,

Defendant.

Case No.: C 09-01531 RS (PVT)

**ORDER GRANTING AS UNOPPOSED  
PLAINTIFF ELAN  
MICROELECTRONICS CORP'S  
MOTION FOR LEAVE TO AMEND  
INVALIDITY CONTENTIONS**

**[DOCKET NO. 180]**

Plaintiff Elan Microelectronics Corporation moves for leave to amend its invalidity contentions to address evidence of prior art that could not be disclosed in the preliminary contentions it served on December 7, 2009. Defendant Apple, Inc. does not oppose the motion. *See* DeBruine Decl., ¶ 8. Pursuant to Civ. L.R. 7-1(b), the motion is taken under submission and the hearing scheduled to be held on November 30, 2010 is vacated. Having reviewed the papers and considered the arguments of counsel,

IT IS HEREBY ORDERED that plaintiff Elan's motion for leave to amend its invalidity contentions is granted as unopposed.<sup>1</sup> Plaintiff Elan has shown good cause to amend its invalidity contentions based on its continuing investigation in the action. For example, Elan later determined

---

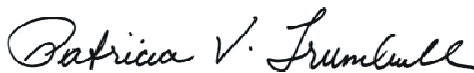
<sup>1</sup> The holding of this court is limited to the facts and particular circumstances underlying the present motion.

1 that the '388 patent is an invalidating reference to at least some of the claims to Apple's '208 patent  
2 and the (Synaptics) '052 patent is relevant prior art to the '659 patent. Mot. at 3. Moreover, entry of  
3 a protective order in February 2010 (after Elan had already served its preliminary contentions)  
4 allowed it to later produce confidential discovery related to Cirque's GlidePoint product. *Id.*  
5 Finally, third-party discovery from 3M, Inc. has provided Elan with additional relevant prior art  
6 references. Mot. at 4.

7 Plaintiff Elan shall file its amended invalidity contentions no later than November 5, 2010.

8 IT IS SO ORDERED.

9 Dated: October 27, 2010

10   
11 PATRICIA V. TRUMBULL  
United States Magistrate Judge

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28